

Kevin T. Fitzgerald, Esquire  
ABA No. 8711085  
Ingaldson, Maassen &  
Fitzgerald, P.C.  
813 West Third Avenue  
Anchorage, Alaska 99501  
(907) 258-8750  
(907) 258-8751/Facsimile  
E-mail: kevin@impc-law.com

Attorneys for Defendant

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ALASKA

UNITED STATES OF AMERICA,	)	
	)	No. 3:05-cr-019-RRB
Plaintiff,	)	
	)	
v.	)	<b>REQUEST TO EXTEND TIME</b>
	)	<b>PERIOD FOR FILING NOTICE</b>
CATHLEEN N. McLAUGHLIN,	)	<b>OF APPEAL FROM TEN</b>
	)	<b><u>DAYS TO 30 DAYS</u></b>
Defendant.	)	
	)	

Comes now Cathleen N. McLaughlin, by and through  
counsel of record, Ingaldson, Maassen & Fitzgerald, P.C.,  
and hereby requests that the time for filing the notice of  
appeal be extended from ten days to 30 days, *nunc pro tunc*.

On December 2, 2005, this court entered judgment  
against Ms. McLaughlin following the sentencing occurring  
on November 30, 2005. Undersigned's office was served with  
the judgment on December 7. At sentencing there arose an  
issue concerning restitution, for which this court set a

USA v. McLaughlin  
No. 3:05-cr-019-RRB  
Request

INGALDSON,  
MAASSEN &  
FITZGERALD,  
P.C.  
Lawyers  
813 W. 3<sup>rd</sup> Avenue  
Anchorage,  
Alaska  
99501-2001  
(907) 258-8750  
FAX: (907) 258-  
8751

restitution hearing for December 13, 2005.<sup>1</sup> Unfortunately, undersigned counsel believed, given the pending restitution issue, that the judgment would not be "final" until the restitution issue was resolved by the court.<sup>2</sup> See Affidavit of Kevin T. Fitzgerald filed herewith. Consequently, undersigned informed his staff to set an initial appeal date of January 31,<sup>3</sup> with the expectation that that date would be extended, depending on the status of the restitution issue.

In the interim, undersigned discussed the possibility of an appeal with Ms. McLaughlin, a task made more difficult given Ms. McLaughlin's residence in Oregon, and undersigned's periodic leave in advance of the Christmas holiday.<sup>4</sup>

---

<sup>1</sup> Indeed, the issue of restitution was subsequently litigated through several hearings and briefs, with a restitution order being signed by this court as recently as February 13, 2006.

<sup>2</sup> The judgment itself provided that "[T]he determination of restitution is deferred pending the restitution hearing. An Amended Judgment in a Criminal Case (AO 245C) will be entered after such a determination." [Emphasis added.]

<sup>3</sup> Thirty days would have been consistent with the state appeal timeline.

<sup>4</sup> Undersigned took some leave time between Wednesday, December 7, and Monday, December 12.

Ms. McLaughlin had initial reservations about filing an appeal, especially if the restitution issue could be resolved. Id. To that end, undersigned contacted AUSA Randall on December 7 to discuss the restitution issue, and believed there was a meeting of the minds that pursuant to U.S. Supreme Court case law the government could not obtain the restitution amount they sought, only to find out when undersigned received the government's restitution brief on December 12, that the government was seeking \$1,688,841.00 in restitution. Id. Given the government's new position on restitution, and possible appeal on that point, subsequent contact with Ms. McLaughlin resulted in her decision to appeal. The notice of appeal was then filed on December 27, 2005.<sup>5</sup>

Fed.R.App.P. 4(b)(4) provides:

Upon a finding of excusable neglect or good cause, the district court may - before or after the time is expired, with or without motion and notice - extend the time to file a notice of appeal for a period not to exceed 30 days from the expiration of the time otherwise prescribed by this rule 4(b).

INGALDSON,  
MAASSEN &  
FITZGERALD,  
P.C.  
Lawyers  
813 W. 3<sup>rd</sup> Avenue  
Anchorage,  
Alaska  
99501-2001  
(907) 258-8750  
FAX: (907) 258-  
8751

---

<sup>5</sup> Undersigned counsel took approximately a week of leave between December 13 and December 27.  
USA v. McLaughlin  
No. 3:05-cr-019-RRB  
Request

CONCLUSION

Ms. McLaughlin requests the court invoke its discretion under Fed.R.App.P. 4(b)(4) based upon a finding of excusable neglect, and grant her request to extend the period of time for filing the notice of appeal from ten days to 30 days, *nunc pro tunc*.

Dated at Anchorage, Alaska February 24, 2006.

INGALDSON, MAASSEN &  
FITZGERALD, P.C.  
Attorneys for Defendant

s/Kevin T. Fitzgerald  
ABA No. 8711085  
813 West Third Avenue  
Anchorage, AK 99501  
Fax: (907) 258-8751  
E-mail:  
kevin@impc-law.com

CERTIFICATE OF SERVICE

I hereby certify that on 2/24/06,  
a copy of the foregoing Request was  
served electronically on:

Crandon Randell, Assistant U.S. Attorney

s/Kevin T. Fitzgerald  
F:\W\3105-1\Pleading\Request.doc

INGALDSON,  
MAASSEN &  
FITZGERALD,  
P.C.  
Lawyers  
813 W. 3<sup>rd</sup> Avenue  
Anchorage,  
Alaska  
99501-2001  
(907) 258-8750  
FAX: (907) 258-  
8751

USA v. McLaughlin  
No. 3:05-cr-019-RRB  
Request